

Update: Traffic Benchbook— Revised Edition, Volume 2

CHAPTER 2

Procedures in Drunk Driving and DWLS Cases

2.9 General Sentencing Considerations for §625 and §904 Offenses

Add the following new subsection on page 2-54 immediately before the beginning of Section 2.10:

H. State Minimum Costs

Effective October 1, 2003, if a court orders a defendant to pay any combination of fines, costs, or assessments, the court shall order the defendant to pay state minimum costs according to the following schedule:

- ♦ not less than \$60.00 for felony convictions.
- ♦ not less than \$45.00 for “serious” or “specified misdemeanor” convictions.
- ♦ not less than \$40.00 for misdemeanors (other than serious or specified) and ordinance violations.

MCL 769.1j(1); MCL 600.8381(4).

“Serious misdemeanors” are listed in MCL 780.811(1)(a). The only “serious misdemeanor” discussed in Volume 2 is operating a motor vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful bodily alcohol content, MCL 257.625(1) and (3), if the violation involves an accident resulting in damage to another individual’s property or physical injury or death to another individual.*

Note that the definition of “serious misdemeanor” includes a violation of a local ordinance substantially corresponding to the violation noted above, and a charged felony or “serious misdemeanor” subsequently reduced or pled to as a misdemeanor.

*See Chapter 3 for discussion of drunk driving offenses.

“Specified misdemeanors” are misdemeanor violations of statutory provisions listed in MCL 780.901(h). The “specified misdemeanors” discussed in Volume 2 are:

*See Section 7.4.

- fleeing and eluding a police or conservation officer, MCL 257.602a,*

*See Chapter 3.

- operating a motor vehicle while intoxicated or visibly impaired by alcohol or drugs or with an unlawful bodily alcohol content, MCL 257.625(1) and (3), where the violation does not cause property damage or another person’s injury or death,* and

*See Section 4.1.

- driving while license is suspended or revoked, MCL 257.904.*

Note that the definition of “specified misdemeanor” includes a violation of a local ordinance substantially corresponding to the violations listed above.

In addition, the minimum state cost must be a condition of probation. MCL 771.3(1)(g) and MCL 769.1j(3), as added by 2003 PA 101, effective October 1, 2003.

2.13 Driver Responsibility Fee

Insert the following new Section 2.13 at page 2-9, and renumber existing Section 2.13 as 2.14:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a driver responsibility fee for specific violations. MCL 257.732a(2) provides for a mandatory assessment of a fixed driver responsibility fee when an individual is convicted of the specific offenses listed. The offenses discussed in Chapters 3 and 4 that require imposition of the driver responsibility fee are listed below. MCL 257.732a states in part:

“An individual, whether licensed or not, who violates any of the following sections or another law or local ordinance that substantially corresponds to those sections shall be assessed a driver responsibility fee as follows:

“(a) Upon posting of an abstract that an individual has been found guilty for a violation listed in this subdivision, the secretary of state shall assess a \$1,000.00 driver responsibility fee each year for 2 consecutive years for any of the following offenses:

* * *

“(iii) A violation of section 625(1), (4), or (5), section 625m . . . or a law or ordinance substantially corresponding to section 625(1), (4), or (5), section 625m”

* * *

“(b) Upon posting of an abstract that an individual has been found guilty for a violation listed in this subdivision, the secretary of state shall assess a \$500.00 driver responsibility fee each year for 2 consecutive years for any of the following offenses:

“(i) Section 625(3), (6), (7) or (8).”

* * *

“(iii) Section 904.”

*See Sections 1.4(G), 3.1, 3.4, and 3.5.

*See Sections 3.3, 3.6, 3.7, and September 2003 update.

*See Chapter 4.

CHAPTER 3

Section 625 Offenses

3.1 OUIL/OUID/UBAC — §625(1)

C. Criminal Penalties and Other Sanctions for Violations of §625(1)

1. First-time Offenders

Insert the following language after the paragraph beginning with “**License Sanctions**” near the top of page 3-6:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(1). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

2. Offenders Who Violate §625(1) Within Seven Years of a Prior Conviction

Insert the following language immediately before the last paragraph on page 3-6:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(1). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3. Offenders Who Violate §625(1) Within Ten Years of Two or More Prior Convictions

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**” near the middle of page 3-7:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(1). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3.3 Operating While Visibly Impaired (OWI) — §625(3)

B. Penalties for OWI

1. First-time Offenders

Insert the following language on page 3-13 immediately before the last paragraph:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(3). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

2. Repeat Offenders — Violation Within Seven Years of One Prior Conviction

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**” in the middle of page 3-14:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(3). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3. Repeat Offenders — Violation Within Ten Years of Two or More Prior Convictions

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**” near the top of page 3-15:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(3). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

*See September 2003 update for discussion of OWPD (operating with the presence of drugs).

3.4 OUIL/OUID/UBAC/OWI/OWPD* Causing Death of Another — §625(4)

B. Penalties for the Offense

2. Licensing and Vehicle Sanctions for First-time Offenders

Insert the following language on page 3-18 immediately after the paragraph beginning with “**Licensing Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(4). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3. Licensing and Vehicle Sanctions for Repeat Offenders

Insert the following language at the bottom of page 3-18:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(4). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3.5 OUIL/OUID/UBAC/OWI/OWPD* Causing Serious Impairment of a Body Function — §625(5)

B. Penalties

2. Licensing and Vehicle Sanctions for First-time Offenders

Insert the following language on page 3-21 immediately after the paragraph beginning with “**Licensing Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(5). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3. Licensing and Vehicle Sanctions for Repeat Offenders

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**” near the top of page 3-22:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(5). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

*See September 2003 update for discussion of OWPD (operating with the presence of drugs).

3.6 “Zero Tolerance” Violations — §625(6)

B. Penalties

2. Licensing Sanctions

Insert the following language on page 3-24 immediately before the beginning of Section 3.7:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(6). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3.7 Child Endangerment — §625(7)

B. Penalties for Violation of §625(7)

2. Licensing Sanctions

Insert the following language near the bottom of page 3-27 immediately before the beginning of subsection 3:

Driver responsibility fee — Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(7). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

*See September 2003 update for addition of new Section 3.8 discussing OWPB.

3.8* Operating With the Presence of Drugs (OWPD)—§625(8)

B. Penalties for Violations of §625(8)

1. First-time Offenders

Insert the following language after the paragraph beginning with “**License Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(8). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

2. Offenders Who Violate §625(8) Within Seven Years of a Prior Conviction

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(8). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3. Offenders Who Violate §625(1) Within Ten Years of Two or More Prior Convictions

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(8). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 4

Section 904 Offenses

4.1 Driving While One's License Is Suspended or Revoked — §904(1) and (2)

C. Penalties

2. License Sanctions

Insert the following language on page 4-4 immediately before “**3. Vehicle Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.904. MCL 257.732a(2)(b)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

4.2 Driving While License Suspended or Revoked Causing Death — §904(4)

B. Penalties and Sanctions

2. Licensing Sanctions

Insert the following language on page 4-6 immediately before the paragraph beginning with “**Points**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.904. MCL 257.732a(2)(b)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

4.3 Driving While License Suspended or Revoked Causing Serious Impairment of a Body Function — §904(5)

B. Penalties and Sanctions

2. Licensing Sanctions

Insert the following language on page 4-8 immediately before the paragraph beginning with “**Points**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.904. MCL 257.732a(2)(b)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

4.4 **Allowing a Suspended/Revoked Driver to Operate Causing Death or Serious Impairment of a Body Function — §904(7)**

B. Penalties

Insert the following language on page 4-10 immediately before the beginning of Section 4.5:

Driver responsibility fee — Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.904, MCL 257.732a(2)(b)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

4.5 Moving Violations Committed During a Period of Suspension/Revocation

Insert the following language on page 4-10 immediately before the existing text in Section 4.5:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.904. MCL 257.732a(2)(b)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 6

Procedure and Sanctions

6.3 Criminal Penalties for Felony Traffic Offenses

Add the following language to the end of Section 6.3:

Effective October 1, 2003, if a court orders a defendant to pay any combination of fines, costs, or assessments, the court shall order the defendant to pay state minimum costs of not less than \$60.00 for felony convictions. MCL 769.1j(1)(a). Payment of the state minimum costs must be made part of a defendant's probation. MCL 771.3(1)(g); MCL 769.1j(3).

6.4 Licensing Sanctions for Felony Traffic Offenses

A. Points

Insert the following language on page 6-4 immediately before subsection B:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a driver responsibility fee based on the number of points an individual accumulates on his or her driving record. MCL 257.732a(1) provides:

“An individual, whether licensed or not, who accumulates 7 or more points on his or her driving record pursuant to section 320a within a 2-year period for any violation not listed under subsection (2) shall be assessed a \$100.00 driver responsibility fee. For each additional point accumulated above 7 points not listed under subsection (2), an additional fee of \$50.00 shall be assessed. The secretary of state shall collect the fees described in this subsection once each year that the point total on an individual driving record is 7 points or more.”

Only points assigned after the effective date of the statute (October 1, 2003) will be used to calculate the driver responsibility fee. Points existing on a driver's record prior to the effective date do not count. MCL 257.732a(6).

Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 7

Felony Offenses in the Michigan Vehicle Code

7.4 Failing to Stop at Signal of Police Officer (“Fleeing and Eluding”)

D. Licensing Sanctions

Add the following new #4 to the existing list at the top of page 7-11:

4. Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of fleeing and eluding an officer. MCL 257.732a(2)(a)(v). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

7.8 Leaving the Scene of an Accident Resulting in Serious or Aggravated Personal Injury or Death

D. Licensing Sanctions

Add the following new #4 to the existing list near the bottom of page 7-18:

4. Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of failing to stop and disclose identity at the scene of an accident when required by law. MCL 257.732a(2)(a)(iv). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 8

Felony Offenses in the Michigan Penal Code

8.1 Involuntary Manslaughter with a Motor Vehicle

D. Licensing Sanctions

Add the following new #3 to the existing list near the bottom of page 8-2:

3. Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle. MCL 257.732a(2)(a)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 9

Two Year Misdemeanors in the Michigan Penal Code

9.2 Negligent Homicide with a Motor Vehicle

D. Licensing Sanctions

Add the following new #3 to the existing list at the top of page 9-5:

3. Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle. MCL 257.732a(2)(a)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).